



HOME OCCUPATION APPLICATION

- I. The filing deadline will be Friday, _____, 20____, before 5:00 p.m. Please submit this application to the City of Fort Smith Planning Department, 623 Garrison Avenue, Room 331.
- II. There will be a study meeting of the Planning Commission on Tuesday, _____, 20____, at 11:30 a.m. at the Creekmore Park Community Center. The Planning Commission may need information that is not included on the application. Therefore, the Planning Commission urges all applicants to attend the meeting to represent their application.
- III. The Planning Commission meeting will be Tuesday, _____, 20____, at 5:30 p.m. in the Rose Room of the Creekmore Park Community Center. The Planning Commission may need information that is not included on the application. Therefore, the Planning Commission urges all applicants to attend the meeting to represent their application.
- IV. A processing fee of \$150.00 shall accompany this application to cover the administrative costs of advertising the public notice and notifying neighboring property owners. **This fee is Non-Refundable.**

TEN DAYS PRIOR TO THE PLANNING COMMISSION MEETING, THE PLANNING DEPARTMENT STAFF WILL POST SIGNS, LIKE THE ONE SHOWN BELOW , AT THE SUBJECT SITE. PLEASE LEAVE THE SIGN IN PLACE UNTIL REMOVED BY THE PLANNING DEPARTMENT STAFF. WE WILL REMOVE THE SIGNS THE DAY FOLLOWING THE PLANNING COMMISSION MEETING OR SOON THEREAFTER.

A white rectangular sign with a black border. In the top left corner is the City of Fort Smith logo. The word "NOTICE" is in large, bold, black capital letters. Below it, "HOME OCCUPATION HEARING" is in bold, black capital letters. Underneath that, in smaller black capital letters, is "FOR THIS PROPERTY". Below that, in even smaller black capital letters, is "MEETING WILL BE HELD ON THE DATE AND AT THE LOCATION LISTED BELOW". The sign has three sections: "DATE:", "LOCATION:", and "USE:", each followed by a blank line for handwritten information. Below these sections, it says "For Information Contact City of Fort Smith Planning Department. (479) 784-2216". At the very bottom, in small black capital letters, is a disclaimer: "Any person removing or tampering with this sign shall be deemed guilty of a misdemeanor and shall be subject to the penalties set forth in Section 1-9 of the Fort Smith Code of Ordinances."

APPLICANT'S CHECKLIST FOR HOME OCCUPATIONS

Please use this checklist to verify that your application is complete.

- ☐ Legal Description of Subject Property
- ☐ Street Address
- ☐ Existing Zoning Classification
- ☐ Type of Business Requested
- ☐ Signature of Applicant
- ☐ Phone Number & Address of Applicant
- ☐ Letter of Permission From Property Owner/Landlord When Applicable
- ☐ Answer Questions 1 Through 23
- ☐ Provide Additional Information on #24
- ☐ List of Adjacent & Contiguous Property Owners
- ☐ Indicate Whether Restrictive Covenants Apply
- ☐ Reviewed Home Occupation Section of Zoning Ordinance
- ☐ Vicinity, Zoning & Land Use Maps of Subject Property
(Staff will assist applicant in preparing these maps)
- ☐ Processing Fee of \$150.00
- ☐ Neighborhood Meeting is Optional

27-338 Home Occupations

27-338-1 Purpose

A. Purpose. The purpose of this section is to grant the Planning Commission the authority to allow residents in Residential Single and Multi Family-Medium/High Density (RS-3 and RM-3), Residential Single and Multi Family High Density (RS-4 and RM-4), Residential Historic (RH) zones, and where homes are located in non-residential zones the privilege of engaging in the limited pursuits of home occupations. This would allow residents to operate minimal business activities and offer limited professional services in their homes. The Planning Commission must determine that such activities shall not conflict with the purposes and objectives of this chapter as stated in Section 27-400. The Planning Commission in granting a home occupation request may impose any conditions and limitations it deems necessary for any particular case to preserve the spirit and intent of this section.

B. Intent. Home occupations, as allowed by this section, are intended to be clean, quiet, non-obtrusive activities operated on a limited basis with the business use incidental to the residential character of those areas.

27-338-2 Applicants

Applications for home occupations may be filed by the resident or an authorized agent for the resident. All applications shall be submitted to the Planning and Zoning Department for review by the Director and Staff. The application shall be accompanied by a processing fee in an amount to be established by the Board of Directors.

27-338-3 Submission Requirements

The Planning and Zoning Department shall prepare an application form specifying the information to be submitted with the application. An application for Home Occupation shall include at least the following information:

- A.** Identification of applicant as owner or tenant of the property. Where the applicant is not the owner, copy of a letter or other notice provided to the property owner describing the application for home occupation.
- B.** The legal description of the property.
- C.** The street address of the property.
- D.** The present zoning classification of the property.
- E.** The description of the proposed home occupation.
- F.** The names and the addresses of all persons listed on the current tax records as the owners of all property located within three hundred (300) feet of the site, including property across streets, alleys and intersections.
- G.** Any part of a restrictive covenant applicable to the property that appears to prohibit this home occupation request.

- H. A questionnaire or series of questions about the nature and impact of the use.
- I. Application fee.
- J. Other information as identified on the application.
- K. Other information as requested by the Director, other departments or agencies, the Planning Commission, or the Board of Directors.

27-338-4 Application and Review Procedures

A. Determination of Completeness.

Applications shall be submitted to the Director for a determination of completeness pursuant to Section 27-303. An application is complete when all of the items required by Unified Development Ordinance and on the application form are prepared and/or answered, and any required supplemental or additional applications (e.g., Comprehensive Plan Amendment) are submitted with the appropriate fee to the Planning and Zoning Department.

B. Neighborhood Meeting.

Even though a neighborhood meeting is not required, pursuant to Section 27-304, the Planning Commission and Planning and Zoning Staff would encourage the applicant to meet with property owners who may be affected by the proposed application.

C. Staff Review.

Following a determination of completeness, the Staff shall review the application pursuant to Section 27-305.

D. Notice and Public Hearing.

Following completion of Staff review the application shall be scheduled for a public hearing before the Planning Commission.

1. Notice shall be provided pursuant to Section 27-308. Notice shall be posted and mailed.
2. The Planning Commission shall consider the criteria listed in Section 27-338-4(F), below in making a recommendation.

E. Planning Commission Consideration. The Planning Commission shall review home occupation applications at its regularly scheduled monthly meeting, at which time interested persons may appear and offer information in support of or in opposition to the proposed home occupation.

F. Minimum Requirements for Consideration

The Planning Commission, in reviewing applications under this section, may consider the performing of a skill, talent, service or profession on a limited basis as a home occupation only if it complies with all of the following:

1. The area to be used for the home occupation is no greater than thirty (30%) percent of the living space of the residence.
2. There shall be no occupational activity on the premises outside of the main structure. An existing detached building which is utilized in conjunction with a home occupation shall be no larger than three hundred (300) square feet in size and can only be utilized for storage of materials.
3. No sign may be used in the operation of the business.
4. No outdoor display of any goods or services and no outdoor storage of materials or equipment is allowed.
5. The home occupation is required to be run only by the resident members of the household and shall not have any other employees, concessionaires or other operators or helpers whether such business is conducted on the premises or off the premises.
6. No sale of any retail or wholesale item or items is allowed on the premises unless they are considered as an accessory item of the approved business. Items drop-shipped or delivered by order may be permissible only after the Planning Commission has approved such operation.
7. Any business conducted on the premises shall be by appointment only, such that no more than two (2) patrons shall be at the business at any one time.
8. The Planning Commission shall have the authority to limit the operating hours of a business where it deems it necessary in order to assure compatibility with the residential neighborhood.
9. The resident shall not utilize the address of the property in any form of business advertising. This includes, but is not limited to, paid commercial advertising, telephone directory advertising, flyers, business cards, etc.
10. The home occupation shall not produce any fumes, odors, noise or any other offensive effects that are not normal to residential activity.
11. The home occupation shall not require the construction of any additional off-street parking areas which would detract from the residential character of the neighborhood. The Planning Commission in exceptional circumstances may allow the construction of additional off-street parking, but under no circumstances more than two (2) spaces in addition to those currently in use for residential purposes. All parking and maneuvering areas must be completely contained on private property. A parking site plan must be approved by the Planning Commission where a business would require customers coming to the property.

G. Determination.

The Planning Commission shall then make one (1) of the following determinations on the application:

1. Approve the application as submitted.

2. Approve the application as amended with modification(s).
3. Continue the application to a date certain.
4. Deny the application.

H. Conditions.

The Planning Commission may impose conditions and restrictions on the property benefited by the home occupation use to reduce or minimize the injurious effects of the home occupation.

I. Compatibility.

The Planning Commission is not required to approve any application for the operation of any home occupation which, in its opinion, is not compatible with the integrity of the neighborhood.

J. Verification.

No license for the conduct of any business shall be issued until City Inspections verify compliance with all conditions set by the Planning Commission.

27-338-6 Conditions

In approving a home occupation application, the Planning Commission has granted an applicant the privilege of engaging in a designated business at the designated address. An approved home occupation and the license thereof cannot be transferred or relocated to another address. Approved home occupations and the license thereof cannot be transferred to any other person. Any approved home occupation which is discontinued for a period of twelve (12) months or more shall be deemed abandoned and the re-establishment of such business shall require the re-application and approval of the Planning Commission as required by this section.

27-338-7 Established Home Occupations

Legally established businesses, occupations or professions conducted at the time of the effective date of Unified Development Ordinance in a residential structure, or accessory building in a residential use area may be continued until that particular business is abandoned for a period of twelve (12) months provided that this shall not be construed to approve continuation of any activity constituting a common law nuisance, or activity prohibited by the statutes, ordinance or restricted covenants applicable to the area.

27-338-8 Appeals

The Board of Directors shall hear appeals from the decision of the Planning Commission in respect to the approval of applications as defined in this section. Any such decision may be appealed by any person having an interest therein by the filing of a written notice of appeal with the City Clerk before 5:00 p.m. on the tenth calendar day following the date of the decision of the Planning Commission. A fee in the amount established by Board of Directors shall be required at the time any appeal is filed in respect to a home occupation application ruling of the Planning Commission.

27-338-9 Enforcement

- A.** This section shall be enforced by the City Administrator, or designated agent, who shall investigate complaints and routinely conduct inspections of occupations operating hereunder.
- B.** When any substantial violation is detected, the operator shall be notified in writing that the home occupation privilege and the privilege license are revoked and terminated effective fifteen (15) days from date of notice.
- C.** The operator may within fifteen (15) days of the date of the notice, file a notice of appeal to the Planning Commission, which shall hear such appeal in a regularly scheduled meeting.
- D.** In the event of such appeal, revocation and termination, where no violation of other ordinances is involved, enforcement action shall be delayed until ten (10) days following the decision of the Planning Commission.
- E.** Where such appeal is requested, the Planning Commission shall hear the facts and determine whether or not the privilege and license shall be terminated for failure to comply with the requirements of this section or other conditions set at the time of approval; or the Planning Commission may issue whatever other direction it may deem appropriate and consistent with the purposes of this section.
- F.** If all such operations have not ceased upon termination of the privilege, the owner of the home occupation shall be guilty of a misdemeanor and shall be subject to the penalties as delineated in Section 1-9 of this Code.
- G.** Any appeal to the decision of the Planning Commission pertaining to such revocation or termination shall be to a court of appropriate jurisdiction.

Additional Information-Restrictive Covenants

What's the Purpose of Restrictive Covenants?

Restrictions give a development a more standard appearance, and control some of the activities that take place within its boundaries. When enforced, covenants protect property values.

What You'll Always See in Covenants

Restrictive covenants nearly always stipulate the minimum size residence allowed, how many homes may be built on one lot, and what type of construction the homes must (or must not) be.

More Topics You'll See in Restrictive Covenants

- Set backs (how far homes must be from streets and interior lot lines).
- Easements (such as a pathway for power lines or roads).
- Fees for road maintenance or amenities.
- Rules regarding changing or voiding the covenants.
- Rules about pets and other animals (for instance: no breeding for profit, no livestock, no unchained pets).
- Regulations dealing with in-home businesses and home rentals.
- Rules that limit tree-cutting.
- Clauses that dictate what type of fencing can be used, or that forbid all types of fencing.
- Clauses to reduce clutter on lots, such as prohibiting owners from storing a vehicle that doesn't run within view of others, or parking a recreational vehicle on the property.

Some restrictions limit the paint colors that can be used on a home's exterior. Some might require that all homes have a certain type of siding. In areas where wildfires are a problem, covenants might require you to use only fire retardant building materials.

INSTRUCTIONS FOR FILING HOME OCCUPATION REQUEST

A. APPLICATION FOR HOME OCCUPATION

1. Provide the legal description of the property included in the home occupation request.
2. Provide the street address of the property.
3. Provide the existing zone classification of the property.
4. Indicate what type of business you are requesting in the application.
5. The notice must be signed by the resident of the property.
6. Provide the telephone number and address of the applicant.
7. If you are not the owner of the property, a letter of permission from the owner shall be required.

B. HOME OCCUPATION INFORMATION FORM

1. Answer all questions 1 through 23 on this form. Where required to explain, be specific.
2. Provide any other information you feel would be helpful in reviewing this application in the space provided in question 24.

C. LIST OF ALL PROPERTY OWNERS WITHIN 300 FEET

1. Give the names and addresses of the owners of all property, any part of which is within 300 feet of any part of the petitioned property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse, Room 107. Please call the Tax Assessor's Office at 783-8948 to schedule an appointment. (The Planning Department will mail the notices for you.)

D. LETTER REGARDING RESTRICTIVE COVENANTS

1. Enter any part of a restrictive covenant applicable to the property that appears to prohibit this request.
2. If there is no statement in the restrictive covenants that appears to prohibit this request, enter the word NONE.

E. COPY OF THE HOME OCCUPATION SECTION OF THE ZONING CODE

Read through this information before filing out this form.

F. OPTIONAL NEIGHBORHOOD MEETING

See 27-338-4 (B)

G. FILING FEE

A processing fee of \$150.00 must be paid to the City of Fort Smith at the time of filing the application. **This fee is Non-Refundable.** If the home occupation is approved, you must then obtain your occupation/business license through the Collections Department.

APPLICATION FOR HOME OCCUPATION

(Please print or type)

Name of Applicant: _____

Legal Description of property included in the home occupation request:

Street Address of Property: _____

Zone Classification: _____

Type of Business Requested: _____

Signed:

Applicant's Name (*please print*)

Applicant

Phone Number of Applicant

Date

Applicant Mailing Address

Property Owner

Date

(if rental property)

Home Occ. # _____

HOME OCCUPATION INFORMATION FORM

1. Describe what type of business you are requesting. _____

2. Will this business be completely contained in the residential structure? Yes ____ No ____
If no, described location. _____
3. What percentage of the residential floor area will be required to operate the business?

4. Will operation of the business utilize any persons other than members of the immediate household? Yes ____ No ____
5. At what hours and days of the week do you plan to operate the business? _____
6. Will there be any noise _____, odor _____, or other outdoor activity _____ associated with the business? If yes, explain. _____
7. Will materials or supplies be stored at this location? Yes ____ No ____
8. How much storage will be needed? _____
9. Will merchandise be sold at this location? Yes ____ No ____ If yes, explain. _____

10. Will you have any business vehicles? Yes ____ No ____ If yes, describe below.
Type of Vehicle:
Make _____ Model _____
Color _____ Length (trailer) _____
11. Will this business require any license, certification, accreditation other than a city occupation license? Yes ____ No ____ What type? _____
12. Can you operate this business by appointment only? Yes ____ No ____
Explain: _____

13. Will customers come to this location? Yes ____ No ____
14. How many customers do you expect to have coming to your home at any one time?

15. Do you expect any drop-in customers? Yes ____ No ____
16. How do you plan to provide parking for customers? _____

17. Do you plan to advertise this business? Yes ____ No ____
If yes, by what methods? _____
18. Do you understand advertising the street address is not permitted? (Including the telephone directory listings.) Yes ____ No ____
19. Do you understand the utilization of a sign in conjunction with this business is not permitted? Yes ____ No ____
20. Will the Home Occupation require a commercial trash container (dumpster)?
Yes ____ No ____
21. Do you own or rent this property? _____
22. If renting, please attach a letter from the property owner giving you permission to operate this home occupation.
23. Do you live at this location? Yes _____ No _____
24. Do you understand that failure to comply with the home occupation requirements could constitute the revoking of the occupation license issued for this business?
Yes ____ No ____
25. Provide any other information that you feel helpful.

LIST OF ALL PROPERTY OWNERS WITHIN 300 FEET

(Please Type or Print)

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property within 300 feet of any part of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse - Room 107. Please call the Tax Assessor's Office at 783-8948 for an appointment. (The Planning Department will mail the notices for you.)

NAME

ADDRESS

1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____
16.	_____	_____
17.	_____	_____

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location_____

Meeting Time & Date_____

Meeting Purpose_____

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:



CITY OF FORT SMITH
BUSINESS REGISTRATION APPLICATION
PLANNING DEPT. 623 GARRISON AVE. FT. SMITH ARKANSAS
Mail to: P.O. Box 1908 Fort Smith, AR. 72902
EMAIL TO: planning@fortsmithar.gov

TYPE OR PRINT
NEATLY

FILL APPLICATION
COMPLETELY

<input type="checkbox"/> I AM ANEW BUSINESS		<input type="checkbox"/> I AM RELOCATING AN EXISTING BUSINESS		<input type="checkbox"/> I AM CHANGING OWNERSHIP	
DATE		NUMBER OF EMPLOYEES		Email	
BUSINESS ADDRESS	STREET		CITY		ST ZIP
BUSINESS NAME				NAICS CODE	
CORPORATE NAME					
STATE TAX ID			EIN		
LICENSE HOLDERS NAME	FIRST	MID	LAST		OWNER OR CEO
APPLICANT NAME	FIRST	MID	LAST		
BUSINESS PHONE			CELL PHONE/EMERGENCY NUMBER		
MAILING ADDRESS	STREET		CITY		ST ZIP
PREVIOUS BUSINESS ADDRESS	STREET		CITY		ST ZIP
PREVIOUS USE OF STRUCTURE					
PROVIDE A DETAILED DESCRIPTION OF YOUR BUSINESS INCLUDING A LIST OF THE PRODUCTS OR SERVICES OFFERED					
WAS/IS THIS STRUCTURE A HOUSE?				YES	NO
WILL THIS BE A SEXUALLY ORIENTED BUSINESS?				YES	NO
WILL THIS BE A FOOD SERVICE BUSINESS?				YES	NO
WILL ALCOHOL BE SERVED OR ALLOWED AT THIS LOCATION?				YES	NO
WILL ALCOHOL BE SERVED LATER THAN 2 AM?				YES	NO

NOTICE: IF OPERATING MORE THAN ONE BUSINESS OUT OF THE SAME STRUCTURE, YOU ARE REQUIRED TO FILL OUT SEPARATE BUSINESS APPLICATIONS FOR EACH BUSINESS. BUILDING/SIGN PERMITS ARE REQUIRED FOR REMODELING/ADDITIONS AND SIGNS

BY SIGNING THIS DOCUMENT, I UNDERSTAND THAT ANY FALSE STATEMENTS MADE IN THIS APPLICATION SHALL RESULT IN DENIAL. I FURTHER UNDERSTAND THAT VIOLATION OF ANY LOCAL, STATE, OR FEDERAL LAW, MAINTAINING A NUISANCE OR UNSANITARY PREMISES, OR OPERATING A BUSINESS CONTRARY TO THAT PERMITTED BY THE APPROVED BUSINESS REGISTRATION SHALL BE CAUSE TO REVOKE THE BUSINESS LICENSE

SIGNATURE: _____

	APPLICANT		OWNER
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